

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v.

**ORDER OF DETENTION**

Docket No. 8-CR-254(S)(M)

JAVAUGHAN PARKER,

Defendant.

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Defendant is charged in a superseding indictment with, *inter alia*, possessing with intent to distribute a controlled substance, in violation of 21 U.S.C. §841(a)(1). At defendant's arraignment on the superseding indictment on April 7, 2009, the Government moved for pretrial detention pursuant to 18 U.S.C. §3142(f) and defendant was ordered detained pending a detention hearing, which was scheduled for April 14, 2009. On the date of the hearing, defendant's attorney stated that defendant waives a hearing at the present time, without prejudice to his right to request a hearing at a later date.

Defendant is entitled to do so. See United States v. Coonan, 826 F.2d 1180, 1184 (2d Cir. 1987) ("Coonan . . . would have us hold that the statutory right to a detention hearing within, at most, five days of the initial appearance is not waivable. This we decline to do, since it would . . . require meaningless, ritualistic hearings in situations where no one wants them"). Accordingly, it is hereby


ORDERED that, pursuant to 18 U.S.C. §3142(i)(2), defendant be committed to the custody of the U.S. Marshals for confinement in a corrections facility separate, to the extent

practicable, from persons awaiting or serving sentences or being held in custody pending appeal; and it is further

ORDERED that, pursuant to 18 U.S.C. §3142(i)(3), defendant be afforded reasonable opportunity for private consultation with counsel; and it is further

ORDERED that, pursuant to 18 U.S.C. §3142(i)(4), upon order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which defendant is confined, deliver defendant to United States Marshals for the purpose of an appearance in connection with a court proceeding; and it is further

ORDERED, that the foregoing is without prejudice to defendant's right to the presumption of innocence, or to his right to request a detention hearing at a later date.

  
JEREMIAH J. MCCARTHY  
United States Magistrate Judge

DATED: April 14, 2009